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Following Intense Deal-Making, Climate Change Bill Clears House

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The House June 26 approved landmark climate change legislation by a 219-212 vote, after incorporating a raft of changes to the legislation as originally adopted by the chamber's energy committee last month, including new language to protect trade-exposed industries, carbon market language barring over-the-counter carbon derivatives trading, high-profile agreements to address the concerns of farm-state lawmakers, and additional support for job training.

Some sources indicate the vote was a come-from-behind victory, with House leaders, the bill's sponsors, the White House and outside luminaries such as former vice president Al Gore working furiously throughout the week and the day of the vote to convince a majority of House lawmakers to back the legislation. One source said the effort even included lobbying by Senate lawmakers of House members in their states.

However, the bill was approved with 44 Democrats joining with most Republicans in voting against it, underscoring the political challenges Congress still faces in enacting the measure. Eight Republicans voted for the House climate package.

Many, though not all, of the changes were first unveiled as part of a massive manager's amendment to the legislation cleared by the House Rules Committee early in the morning of June 26. Some of the revisions made to the bill just before the House floor vote include the addition of trade-related language that would require the president in 2020 to propose a border adjustment to address uncompensated costs for industries receiving free allowances under the climate bill. The language has an escape clause that comes into play if the president to determines the adjustment is not in the national interest and Congress passes a privileged resolution reaching the same conclusion, according to a June 25 statement by House Ways & Means trade subcommittee Chairman Sander Levin (D-MI).

On carbon markets, the bill would bar over-the-counter trading of carbon derivatives and place regulatory jurisdiction over such trading squarely in the jurisdiction of the Commodity Futures Trading Commission, according to congressional sources and a summary of a June 26 summary of changes provided by House Energy & Commerce Committee. However, the legislation also includes provisions that would scrap at least some of the carbon market regulation language in the event Congress passes new legislation to regulate financial markets, which suggests that some of these issues could be revisited.

Other changes include language to expand the definition of hydropower that qualifies for credit under a combined renewable and efficiency electricity standard; establish new transmission line siting authority for the Federal Energy Regulatory Commission (FERC) in the Western United States; require a Department of Energy report to Congress on the merits of thorium-fueled nuclear reactors; limit a building performance-labeling program to new construction; accommodate states that utilize a central procurement model for renewable energy deployment;

establish a renewable energy standard for federal agencies; and provide additional support for jobs training including a fund for an energy efficiency and renewable energy worker training.

Another change included in the manager's amendment, and already being touted on the Senate side of the Capitol, is a revolving loan program to aid small-and medium-sized auto suppliers and other manufacturing companies in retooling their operations to produce green technologies. "This confirms that clean energy legislation is an opportunity for Ohio manufacturing," Sen. Sherrod Brown (D-OH) said in a June 25 press release.

Concessions To Farm States

The legislation also includes an array of high-profile concessions to farm-state lawmakers, some previously announced, including an additional 0.5 percent of allowances to rural electric cooperatives, and language blocking EPA from going forward with methods for calculating international indirect emissions from land-use changes from biofuels production as part of a final renewable fuel standard (RFS) expected this summer. The land use language—one of several deals reached between energy committee Chairman Henry Waxman (D-CA) and Agriculture Committee Chairman Collin Peterson (D-MN) in the days prior to the House vote—requires a five-year study of the issue by the National Academy of Sciences after industry and other critics argued that EPA analysis of land clearing and agriculture practices in other countries due to domestic demand for biofuels would unfairly penalize the U.S. biofuels industry.

Given existing exemptions in current law for many biofuels plants, some observers say a bigger win for farm states is language granting the Department of Agriculture, rather than EPA, authority over the agriculture sector carbon offsets program created by the legislation. The arrangement still allows EPA a role in non-farm related domestic offsets at the domestic level as well as over the international offsets program, and lawmakers say they plan to consult the Obama administration on ways to achieve at least some EPA involvement. The deal also establishes a list of project activities likely to qualify as offsets.

Other concessions to agriculture or forestry groups include provisions to grandfather biodiesel facilities from low carbon requirements in the 2007 energy law and broaden the definition of renewable biomass that is eligible for credit under the climate bill's renewable electricity standard and an existing renewable fuels standard. For private lands, the revised definition adopts a definition used in the current farm law, and for federal lands it expands the ability to harvest biomass from dead or damaged trees on "late successional"stands. The bill also clarifies that agriculture and forestry sectors are exempt from the bill's emissions cap.

Another last-minute change affecting both the agriculture and utility sector allows companies subject to the bill's emissions limits to purchase time-limited, "term offset" credits under the domestic agriculture offset program in the legislation.

Non-agriculture related changes in the bill that would affect EPA include a requirement that the agency report to Congress on how different carbon reduction strategies will affect emissions of other air pollutants, as well as language requiring EPA and the Energy Department to consider cost-effectiveness in providing consumers information on Energy Star products.

Even before release of the manager's amendment, Waxman on June 23 released a series of other changes that sources say appear to have been retained, though Carbon Control News was unable to rule out possible additional adjustments at press time.

Distributing Rebates

The changes floated June 23 include new protections for industrial consumers of both natural gas and electricity, as well as what one source calls a "tweak" to the formula for distributing rebates to households that shifts a greater share of the rebates to the poorest consumers at the urgings of the House Ways and Means Committee.

Other revisions contained in the legislation released June 23 include language to give manufacturers more time to reduce emissions from non-road emissions sources; the deletion of language to establish aircraft emissions standards; new language to provide for the initial capitalization of a Clean Energy Deployment Administration for encouraging low-carbon energy technologies including nuclear energy; provisions granting more assistance to small refiners; a requirement for a study to examine domestic barriers to carbon sequestration; and language stating that offsets can be generated by projects that destroy chlorofluorocarbons (CFC), which are potent greenhouse gases, if allowed by the EPA administrator. The June 23 language also reflected an agreement between Waxman, House Transportation & Infrastructure Committee Chairman James Oberstar (D-MN) and other lawmakers by including a measure calling for the Department of Transportation to set national transportation-related greenhouse gas emissions reduction goals. It also boosts states' flexibility to use allocated allowances to boost projects such as public transit.

Prior to the vote, the White House released its Statement of Administration Policy, urging lawmakers to support the bill, touting its potential to create jobs and reposition the U.S. as "a global leader in efforts to mitigate climate change," though the statement does not explicitly reference the cap-and-trade mechanism included in the bill for reducing emissions. The Obama administration states that, as the bill moves to the Senate, it "must be consistent with our international obligations and an open and integrated global economic system" and "must meet the President's objectives of creating a clean economy through an efficient, cost-effective, and comprehensive approach."

In the wake of the vote, attention now shifts to the Senate, where lawmakers have already begun conversations with House backers of the legislation to chart their way forward.—*Doug Obey and Nick Juliano*